LIMITS AND SCOPE OF THE TREATY-MAKING POWER.

OPINION OF ATTORNEY-GENERAL AKERMAN. DEPARTMENT OF JUSTICE, Dec. 15, 1870. Hon. GEO. S. BOUTWELL, Secretary of the Treasury.

Sir: In answering the question propounded in your letter of the 20th of September, 1870, it is neces sary that I should consider a series of treaties and stat-

In the treaty of June 22, 1855, with the Choctaw and Chickasaw Indians (H U. S. Stat., p. 611), it was provided that certain claims of the Choctaws against the United States, set up under a prior treaty, should be submitted tor adjudication to the Senate of the United States. The Senate does not appear to have ever adjudicated the claim by any separate action; but in the Indian Approprintion Act of March 2, 1861, it was provided that there should be paid to the Choctaw nation or tribe of Indians on account of their claim under the 11th and 12th articles of the treaty with said nation or tribe, made the 22d of June, 1855, the sum of \$500,000; \$250,000 of which sum shall be paid to money; and for the residue, the Secretary of the Trensury shall cause to be issued to the proper au therities of the nation or tribe, on their requisition, bonds of the United States authorized by law at the present

" Provided, That in the future adjustment of the claim of the Chectawa, under the treaty aforesaid, the said sum shall be charged against the said Indians."—(12 U. S.

In the Indian Appropriation bill of July 5, 1862 (12 U. S. Stat., p. 528), it was provided, "That all appropriation beretofore or hereafter made to carry into effect treaty atipulations, or otherwise, in behalf of any tribe or tribe of Indians, all or any portion of whom shall be in a state actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaw-Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President;" and the President was further author ized to expend any unexpended part of previous appropriations for the benefit of said tribes, for the relief of such individual members of the tribes as had been driven m their homes, and reduced to want, on account of

their friendship to the Government.

In the Indian Appropriation act of March 3, 1865 (13 U. S. Stat. p. 560), the Secretary of the Treasury is author ized and directed, in lieu of the bonds for the sum of \$250 o, appropriated for the use of the Choctaws in the act 1861, " to pay to the Secretary of the Interio \$250,000 for the relief and support of individual members of Cherokee, Creek, Choctaw, Chlekasaw, Seminole, Wi hita, and other affiliated tribes of Indians, who have been driven from their homes and reduced to want on account of their friendship to the Government,"

On the 28th of April, 1866, a treaty was made with the th article of which is in the following works: United States reaffirms all obligations arising out of eaty stipulations or acts of legislation with regard to the Choclaw and Chickasaw nations, entered into prior to the late Robellion, and in force at that time, not insistent herewith; and further agrees to renew the payment of all annuities and other moneys accruing un-der such treaty stipulations and acts of legislation, from and after the close of the fiscal year ending on the 30th of June, in the year 1866." The 45th article is in these ords: "All the rights, privileges, and immunities here tofore possessed by said nations or individuals thereof, or to which they were entitled under the freaties and legislation heretofore made and had in connection with them, shall be, and are hereby declared to be, in full force, so far as they are consistent with the provisions of

The Choctaw Indians have made requisition on the Secretary of the Treasury for bonds of the United States to the amount of \$226,000, under the act of March 2, 1851; ad the question upon which you desire my opinion is, whether such bonds may lawfully be issued to them.

Without considering the effect of other legislation on subject, I am of opinion that the act of March 3, 1865, withdrew from the Secretary of the Treasury the author ity vested in him by the act of 1861, to issue the bonds; nd unless that authority is revived in the treaty of

July, 1806, it does not now exist.

But, I am further of opinion that such authority is regived by that treaty, if a treaty can have such effect. By the treaty, the United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw nations, entered into prior to the late Rebellion, and in force at that time. In every reasonable sense of the word obligations, as used in that treaty, the provision in the act of 1861 for issuing the bonds, was an obligation. Liberal rules of construction are adopted in reference to Indian grew out of a treaty stipulation and an act of legislation in part execution of a treaty stipulation. It was entered into palor to the late Rebellion. It was in force when the bellion began. Thus it answers every part of the description in the treaty.

The sections of the treaty above quoted, together with others of its provisions, place these Indians, as to all dues from the Government, just as they stood at the outbreak of the Rebellion in April, 1881. To reaffirm obligations arising out of a repealed act of legislation, must which they stood when the act of legislation was in force. The serious question, however does not relate to the meaning, but to the authority, of the treaty of 1866. Secretary of the Treasury in the act of March 2, 1864. The treaty undertakes to revive that direction. Is such an act within its competency !

By the sixth article of the Constitution, treaties as well as statutes, are the laws of the land. There is nothing in the Constitution which assigns different ranks to treaties and to statutes. The Constitution itself is of higher rank than either, by the very structure of the Government. A statute not inconsistent with it, and a treaty not inconsistent with it relating to subjects within the scope of the treaty-making power, seem to stand upon the same level, and to be of equal validity; and cas in the case of all laws emanating from an equal authority), the earlier in date yields to the later.

In 1791 Mr. Madison wrote as follows: "Treaties, as I understand the Constitution, are made supreme over the constitutions and laws of the particular States, and, like a subsequent law of the United States, over preexisting laws of the United States; provided, however, that the treaty be within the prerogative of making treaties, which no doubt has certain limits."-(Writings

In the United States agt. The Schooner Peggy (i. Cranch, p. 37.) the Supreme Court of the United States, in an opinion delivered by Chief-Justice Marshall, held, in effect, that a treaty changed the preëxisting law, and is as much to be regarded by the Court as an act of Con-

In Foster and Elam agt. Neilson (2 Peters, p. 253,) the Supreme Court say: "The Constitution declares a treaty to be a law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature, whenever it operates of itself without the aid of any legislative provision;" and, in applying this prinunder consideration had acted directly upon the subject, it "would have repealed those acts of Congress

which were repugnant to it." In Taylor agt. Morton (2 Curtis's C. C. R., p. 454) it was held that Congress may repeal a treaty so far as it is a municipal law, provided its subject matter is within the legislative power of Congress. The just correlative of this proposition would seem to be that the treaty-making power may repeal a statute, provided its subject matter is within the province of the treaty-making power. At torney-General Cushing, in 1854, after a full examination of the subject, came to the conclusion that a treaty, as-suming it to be made conformably to the Constitution. has the effect of repealing all pre-existing Federal law in conflict with it.—(Opinions, Vol. VI., p. 291). Hamilton says: "The treaty power binding the will of

the nation, must, within its constitutional limits, be paramount to the legislative power, which is that will; or, at least, the last law being a treaty, must repeal an ante-cedent contrary law,"-(Works of Hamilton, Vol. VI., p. "It is a question among some theoretical writers-whether a treaty can repeal pre-existing laws! This question must always be answered by the particular form of government of each nation. In our Constitution, which gives, ipso facto, the force of law to treaties, making them equal with the acts of Cengress, the supreme law of the land, a treaty must necessarily repeal an antecedent law contrary to it; according to the legal maxim that 'leges posteriores priores contrarias abrogant.' (1bid, Vol. VII., p. 512).

An engagement to pay money is certainly within the province of the treaty-making power, and I cannot per-ceive that such an engagement is carried beyond that province by the circumstance that it provides for legning through the agency of a particular officer an obligation to pay money at a particular time; for such, in effect, is a

Can the Secretary of the Treasury issue the honds without a new direction from Congress ! In other words, is an officer of the Executive Department of the Governprent. It is established, by a long course, of authorita and in decising their general plan on the opinion and conforming practice, that, in many -New Fork, Dec. 21, 1870.

eases, the Executive of the United States can execute the stipulations of a treaty without provision by act of Con-gress. In some instances this has been done as a general Executive duty, when the treaty itself pointed out no particular mode of execution. This was the course take n the case of Thomas Nash, otherwise called Jonathan Robbins, who was delivered up by the direction of President Adams to the British authorities, in execution of the treaty with Great Britain in 1794. An attempt to bring the censure of Congress upon the President for this act was encountered by an argument from Chief-Justice Marshall, then a representative from Virginia, which conclusively established the power. In other cases the President has acted when the mode of action was pointed

out in the treaty.

In the treaty of Washington of 1842, there was a

rision for extradition of criminals.

Prior to any legislation for carrying out this provisio of the treaty, it was executed by officers of the United States. In 1845, James Buchanan, Secretary of State, ssued a warrant for the arrest of certain persons, sub ects of Great Britain, who were charged with a crimommitted under British jurisdiction and against British aws; and it was decided by Mr. Justice Woodbury, upon the return to a writ of habeas corpus, that the warrant and the arrest were legal.-(1 Woodbury and Minot's Rep., p. 66.)

The learned Justice remarks, "It is here only on the ground that the act to be done is chiefly ministerial, and the details full in the treaty, that no act of Congress seems to me necessary,"—(Ibid, p. 74.) Attorney-General Nelson, in discussing this treaty, remarks: "It has been made under the authority of the United States, and s the supreme law of the land."

It has prescribed, by its own terms, the manner, mode nd authority, in and by which it shall be executed. I has left nothing to be supplied by legislative authority but has indicated means suitable and efficient for the acemplishment of its object. It needs no sanctions other or different from those inherent in its own stipulations and requires no aid from Congress. Surely it cannot b necessary to invoke the legislative authority to give it validity by its recnactment.-(4 Opinions,p. 209). This language may be fitly appled to the treaty with the Choc

I am aware of the distinction which has been taken be tween such treaties as do and such as do not import a contract, and of the current notion that, in the former ase, Congress must act before the treaty can be exe ented. But the practice of the Government in extradiion treaties, and in other serts of international cove nants, has been at variance with this notion.

nants, has been at variance with this notion.

If the Executive may constitutionally execute a treaty
for delivering persons to foreign jurisdiction, it may wel feel authorized by the Constitution to execute a treaty that stipulates for the less important matter of issuing According to article 1 section 9 of the Constitution, as

construed by the practice of the Government, an act of Congress is necessary to appropriate money to pay the Public Debt, however created. The change of the form of the debt from a general stipulation in the treaty to bonds with particular provisions, does not take away that

The time for the exercise of whatever power Congress has over the subject will come when provision for the payment of the bonds is to be made.

Waiving all discussion of the desirableness, on ground of expediency, of immediate authority from Congress and responding to your question according to my judg ment of the law of the case, I am of opinion that you

may lawfully issue the bonds to the Choctaws, & Very respectfully, your obd't serv't, A. T. AKERMAN, Attorney-General.

MR. THEODORE TILTON AND THE INDE

Mr. Theodore Tilton, in retiring from his editorial connection with The Independent, takes the following farewell of his readers in the issue of that journal to be pablished to-day :

selected connection with The Independent, takes for the surprise of the grades in this same of that journal to be published tools, and the second tools and the second tools are the published tools. The tree of the published tools, and the published tools, and the published tools, and the published tools, and the published tools. The tree of the published tools, and the published tools, since it white. But this change is not made for this reason alone. It seems to published tools, since it white. But this change is not made for this reason alone. It seems to published to the published tools, since it white. But this change is not made for this reason alone. It seems to published to the published tools, since it white. But this change is not made for this reason alone. It seems to published to the published tools, since it white. But this change is not made for this reason alone. It seems to published to the published tools, since it white. But this change is not made for this reason alone. It seems to published to the published tools, since it white. But this change is not made for this reason alone. It seems to published to the publ

AN OPPORTUNITY FOR CHRISTIAN CHARITY. To the Editor of The Tribune.

SIR: Not long since, while attending ar evening service at a mission church, a sight of suffering met my eye. A respectable, attentive woman, sitting near me, fainted and lay some time inscnsible from the effects of hunger. When her home was visited, six chil dren under twelve-one at the breast-were found, the father in consumption, trying to keep his family alive by making heavy overcoats, \$5 for four, a week's work for a healthy man. Having given all their food to their children, they were famishing without uttering a complaint Her pallid face seemed to say: "I am in Christ's stead, a hungered and a stranger, what will you do unto me? The next time I went to that church I saw a tall, gaupt man leaning feebly against the wall after service. I learned that he and his wife had been without food or fire for 24 hours, having fed every crumb they could obtain to their five young children. I saw also a widow who has supported her family well by washing. Just as who has supported ner family well by washing. Just as two of her children are prostrated with diphtheria and scarlet fever, she has lost all her customers, who from fear of infection have not dared send their clothes to her. She is now penniless, out of work at the beginning for food and clothing. These are only a few of the many harrowing cases which daily occur in that neighborhood. They are respectable, Christian people, strangers in a strange land (mostly German), frugal and temperate, and unwilling to ask charity.

Temporary help has been sent to the above cases, but they need, and will for some time, far more than has been done. Is there no rich men who will extend a helping hand to these families? Is there no woman seeking to serve Christ with her substance who will help feed these hungry mouths, and clothe these suffering children?

The "Wilson Mission House" competitions a church

hese hungry mouths, and clothe these suffering chilrent
The "Wilson Mission House," comprising a church
undenominational). Sabbath-school, and day-school,
tands where this tide of sorrow is ever flowing Ito its
loor. Ten thousand dollars has to be raised annually for
tsordinary work, and is expended with studied economy. Now that sources of employment are drying up,
and Winter approaching, the number of worthy industrious people, strangers, sick, hungry, and heart-broken,
is increasing fast. Who will share the privilege of ministering to these weary sonis and bodies!

Wilson Mission House,
No. 125 Eighth-st., cor. Arenue A., Dec. 20, 1870.

THE MUTILATION OF CENTRAL PARK DETER-To the Editor of The Iribune.

SIR: As The World of this morning intimates that the Park Department has no intention of establish-ing a Zoological Garden upon the meadows of the Upper Park—as stated in the note which we addressed you—we place before you below a copy of the resolution published in the morning papers of Nov. 24:

A Report from the Executive Committee * was received and Approved as follows:

Brooked. That the Committee select and designate for the site of the Zoological Gardens the meaning or green immediately north of the Upper Received, and direct the Architect-in-Chief (Mr. Model) to forthwith prepare and submit plans for necessary and smitable buildings and structures therefore. prepare and submit plans for necessary was prepared and submit plans for necessary was tures therefor. Has the Engineer-in-Chief (Mr. Kellogg) and Prof. Hawking the Engineer with and be consulted by the Architect-in-Chief in locating the various structures and issificing to be erected on the Zoulogical Garden and in deviating their gas et al. plan and character.

OLMSTED, VAUX & Co.

THE PILGRIM FATHERS.

ORATION BY THE HON, ROBERT C. WINTHROP. PLYMOUTH, Mass., Dec. 21.-The Hon. Robert C. Winthrop delivered an oration to-day at noon in this city, in honor of the 250th anniversary of the landing of

the Pilgrim Fathers. After adverting to the Landing of the Pilgrims and the wenderful results springing from their venture, the speaker said: There have been, and will be, other occaons for boasting, if any one desires to boast, of what New-England has accomplished, directly or indirectly, for herself or for mankind, in later times. There have been, and will be, other opportunities for a general glorification of New-England principles, New-England achievements, New-England inventions and discoveries, past or present, remote or recent. We recognize them all to-day-all, at least, that are worthy of being recognized at all, as the legitimate result and development of this day's doings. We count and claim the progress of our country, in its best and worthlest sense, as the "Pilgrim's Progress;"-as the grand and glorious advance upon a line of march in which they were the pioneers, and for which they, in their own expressive phrase, literally as well as metaphorically, were the instrumenta " to break the ice for others." THE RECORDS OF THE PILGRIMS.

Since the last celebration of the Jubilce of the Pilgrims, fifty years ago, antiquarians at home and abroad have investigated with new zeal the traces of our Pil grim forefathers. One, especially, I recall, a venerable antiquary of Old England, the late Rev. Joseph Hunter, who, having diversified his routine of service, in Her Majesty's Public Record Office, by tracts illustrative of the great triumphs of his own country in arms and is literature-triumphs by the sword of Henry V. at Agin court, and triumphs by the pens of Shakespeare and Mil ton in the fields of epic or dramatic poetry-turned to the Pilgrims of Plymouth, and to the Puritans of Massi-chusetts, for the latest and best themes of his unwearied nvestigations. To him we primarily owe it that we ca follow back that little band, to which the name o Brownists had been contemptuously given, to the very hive from which they first swarmed-that little in Yorkshire and Nottinghamshire, and not far from Lincolnshire, around he so fitly inscribed the legend, " legend, "Maximo gentis incunabula,"—the cradle of the greatest nation. By the light of his antiquarian torch we are able to fix the precise locality and surroundings of the old Manor Place of Scrooby—a palace of the Archbishops of York, which was occupied as a refuge for many weeks by the great lord Cardinal Wolsey, when, having "ven tured in a sea of glory, but tar beyond his depth," he had at last been left, "weary and old with service, to the nercy of a rude stream," which was forever to hide him; and which, not many years afterward, Henry VIIIth himself had selected for a resting-place during one of his royal progresses to the north, but which, half a century later, had become the home of one whose oc cupation of it, even for an hour, would have given it elebrity and a sanctity in our remembrance and regard, which neither archbishops, nor cardinals, nor kings could have imparted to it in a lifetime.

In the "Manor of the Bishops" William Browster, one of the noblest of the men whom we are here to con memorate, retired in disguar from the pomps and vanitles of the Court and gave himself up to religious meditation

and study.

At his house—this very "manor of the Bishope," which Mr. Hunder helped us to identify—we learn that the members of the church of which the sainted Robinson was the pastor, the church of our Plymouth Pilgrims, "ordinarily met on the Lord's Day; and with great love he entertained them when they came, making provision for them to his great charge; and continued so to do while they could stay in England."

THE ANEAS AND ASCANIUS OF THE PILGRIM EPIC. But it is not only the residence of Brewster which the researches of good Mr. Honter, the very Nimrod of aniquaries, have revealed to us. There, within that armed circle-the cradle of the greatest nation-he helped us to discover a birthplace which, owing to blundering misprint, had so long baffled the most eager a blundering misprint, had so long baffled the most eager search; the birthplace of one who might almost contest with Erewster himself the right to be maned first at any commemoration of the Filgrim Fatherstheir Governor for 30 years, their historian, their principal writer both in prose and verse, and second to no one of them, from first to last, in the fidelity and devotion with which be sustained and filmstrated their principles. There, within that same charmed circle, in the record-book of the little church of Austerfield, still standing, has been found the distinct entry. "William, son of William, Bradfourth, baptized the X1Xth day of March, Anno Dhi 1889." Bradford and Brewster, if I mistake not, are the only two of our Pitgrim leaders who can be distinctly identified with that little church at Scrooby, of which the venerable Richard Clifton and the zealous John Robinson were the associated pastor and teacher, and out of which

rancor prevailed in Separatist and Brownist circles. But, alas: more serious dissensions than these were soon to agitate again that whole united Republic, and to involve it in a crime of which all the multitudinous seas which surround it could hardly wash out the stain. The successor to the chair of Arminius in the University of Leyden (Vorstius) had not only stirred up "hearts of Leyden (Vorstius) had not only stirred up "hearts of Leyden (Vorstius) had not only stirred up "hearts of Leyden (Vorstius) had not only stirred up preaching the peculiar doctrines of his master, but had roused the special indignation of the royal theological polemic and titular Defender of the Faith across the channel—that same James I, who a few years before had cut short a conference with the Puritan leaders at Hampton Court, by declaring that "he would make them conform or he would harry them out of the land," and who, in this respect certainly, had been as good as his word.

He had the insolence now to demand that the obnoxions Professor of Leyden should be dismissed from his chair and banished from the States—leaving it, also, to their "Christian wisdom" whether he should not be burned at the stake for "his atheism and biasphemics," The States were compelled to comply, but the banishment of Vorstius only the more inflamed the theological strife which raged throughout their dominions. Prince Maurice and Olden Barneveld were again at each other's throats; the former as the leader of the Calvinist party, and the latter as the leader of the Calvinist party, and the latter as the leader of the Arminians, with Grotius as his second. And, incredible as it seems to us at this hour, the controversy was only terminated by

party, and the latter as the leader of the Calville party, and the latter as the leader of the Arminians, wit Grotius as his second. And, incredible as it seems to u at this hour, the controversy was only terminated be one of the most infamous judicial murders which pollut the annals of mankind; taking its loathsome place is the calendar of crime by the side of the execution of Si Walter Raleigh, the year before, and of Algernon Sydne, and Lord William Russell half a century later. On the 13th of May, 1619, Oiden Barneveidt, the noble patrio and benefactor, second to no one among the founders of the Republic and the authors of its liberties, was condemned to death and beheaded at the Hague; while Grotius was sentenced to perpetual imprisonment—from which, however, the ingenuity of his wife happily released him at the end of two years.

THE MATFLOWER HEGIRA.

Whether these atrocious measures turned the stern tomache of the Pilgrim exiles is not known, but shortly thereafter the purpose of quitting Holland-conceived two years before the tragedy was enacted-was put in motion, and agents sent to London to get recruits for the new Hegira. The Maydower was after a time secured,

motion, and agents sent to London to get recruits for the new Hegira. The Mayflower was after a time secured, and on the 16th day of September, 1620, Old England is parted from forever. The Mayflower and its 192 passengers have entered on the voyage, which is to end not merely in founding a more memorable Plymouth than that which they left behind, but in laying the cornerstone of a mightier and free nation than the sun in its circuit had ever before shone upon.

I shall not detain you with the details of that perflous voyage across the wintry Atlantic, with its "many flerce storms, with which the ship was badly shaken and her upper works made very lenky; and one of the mainbeams in the midships bowed and cracked," nor dwell on that "serious consultation" in mid-ocean about putting back, when "the great iron screw which the passengers brought out of Holland" was so providentially found "for the buckling of the mainbeam," and "raising it into his place;" nor shall I stop to renarrate their strival on the flat of November within the sheltering arms of younder noble Cape. This was described at the previous great celebration by Everett. The words still ring in my cars, "With a spirit raised above mere natural agencies," he exclaimed, "I see the imountains of Now-England rising from their rocky thrones. They rush forward into the ocean, settling down as they advance, and there they range themselves, a mighty bulwark around the heaven-directed vessel. Yes, the everlasting God himself stretches out the arm of His mercy and His power in substantial manifestation, and gathers the meck company of His worshoppers as in the hollow of His hand!"

Lurn at once to what concerns this day and this hour. "ON THE SABBATH WE RESTED."

I turn at once to what concerns this day and this hour. I turn at once to that third exploring party which left the Mayflewer-not quite blown up by the rashness of a mischievous boy, and still riding at anchor in Cape Cod harber-on the 16th of December; and for whose wanlerings in search of a final place of settlement our derings in search of a final place of sections of the friend Dr. Dexter has supplied so precise a chronologic table. I turn to those "ten of our men," with "two our seamen," and with six of the ship's company eighteen in all—in an open shallop, who, after spending a large part of two days "in getting clear of a sand cighteen in all—in an open shallop, who, after spending a large part of two days "in getting clear of a sandy point, which lay within less than a furlong of the ship."—"the weather being very cold and hard," two of their number "very sick," and one of them almost "swooning with line cold," and the gunner for a day and a night seemingly "sick unto fleath"—found "smoother water and better sailing" on the 17th, but "so cold that the water freze on their ciothes and made them many times like coats of iron;" who were startled at midnight by "a great and hideous cry," and after a fearful but triumphant "first encounter," early the next merning, with a band of Indiana, who assailed them with savage yells and showers of arrows, and after a hardly less fearful encounter with a furious storm, which "split their mast in three pieces," and swept them so far upon the breakers that the cry was suddenly heard from the helmsman, "About with her, or else we are all cast away," found themselves at last, when the darieness of midnight had almost overtaken them, "under the lee of a small island, and returned all that night in safety," "keeping their watch in the rain." There they passed the 19th, exploring the island, and perhaps repairing their shattered mast. The record is brief but suggestive: "Here we made our rendezvous all that day, being Saturday." But briefer still, and how much more suggestive and significant, is the entry of the following day:

"10. (20) of December, on the Sabbath day wee rested."
Among all the marvelous concisenesses fand teree-

and of maximal for eather spectralines.

The starting are too familiar to need regulation. Not a successful and the starting are too familiar to need regulation. Not a starting are too familiar to need regulation. Not a starting are too familiar to need regulation. Not a starting are too familiar to need regulation. Not a need to the starting are too familiar to the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting are too familiar to the starting and the starting country white one patients were placed by the great true form in the case of the starting and the starting country white one patients were started to be starting as the starting country white one patients were started to be starting as the starting country white one patients were started to be starting country white one patients are to desire the starting country white one patients are to start to the starting country white one patients are to start to the starting country white one patients are to start to the starting country white one patients are to start to the starting country white one patients are to start to the starting country white one patients are to start to the starting country white one patients are to start to the starting country white one patients a

mutual indulgence, but even religious concord." Such a spirit of toleration—such religious liberty as that—even in an age of Paganism, gradually led to the overthrow of the great Eupire of the Old World. What else but overthrow can it accomplish in a Christian age for the great Républic of the New World?

THE TURF.

DECISIONS OF THE BOARD OF APPEALS OF THE TROTTING CONGRESS.

At the Congress of the Trotting Associations t the United States, held in this city last February, a Board of Appeals was instituted to review the decisions of the judges of disputed races where the meaning and true intent of the new rules were involved, and to reverse those decisions wherever it might seem just and necessary. The report of the Board has just been issued, after considerable delay, by the following members: Col. Amasa Sprague, Narragansett Trotting Association; Mr. Russell, Boston Association; Mr. Hall, Prospect Park Association, and Mr. Vail, Hartford Association

The first case was the appeal of L. L. Dorsey of Louisville, Ky., agt. The Mystic Park Association. Seven horses started for the purse for 2:22 horses, and M. Roden's Prince was awarded the first heat, although he did not come in first. Before the second heat, Prince was allowed by the judges to be withdrawn, on the ground that he had been drugged, and they declared all pools and bets up to that point off, and the heat void. The next two heats were won by Budd Doble's Dot, and the succeeding two by the horse Tom Keeler, Mr. Dorsey's mare being ruled out for not winning one heat in five, in accordance with the rules of trotting. Mr. Dorsey took exception to the judges' decision, claiming that as the first heat had been declared void, only four heats of the race had been trotted, and that his mare was consequently eligible to start for the fifth heat. The Board of Appeals decided that Mr. Dorsey's mare was properly

of Appeals decided that Mr. Dorsey's mare was properly ruled out by the judges, for the first heat, awarded to Prime, must be counted, and placed on the record as part of the race, for all purposes except the determination of peols and outside betting.

The second case brought up was the protest of Messra, Joslyn, Jarvis, and Lyon against L. C. Ryerson, Charles Records, and the Horse Brown Prince, the former charging the latter with having made a fraudulent entry in a race trotted June 29, at the New-Haven Driving Park Association Meeting, Charles Records bought the horse Brown Prince, who had tretted in 2:34, and subsequently Mr. Ryerson entered him at New-Haven for a purse for 2:40 horses, under the name of New-Haven Boy, Records being at the time in Ryerson's employ. Mr. Ryerson made an affidavit that he was entirely ignorant of the former history of Brown Prince at the time he made the entry, and was innocent of all intention to deceive or defraud. The decision of the Board was that Mr. Ryerson was entitled to the full benefit of his affidavit, but that Charles Records and the horse Brown Prince were ruled off all courses represented in the Trotting Congress of Association. The reverse of 850 was awarded to Messra.

was entitled to the full benefit of his affidavit, but that Charles Records and the horse Brown Prince were ruled off all courses represented in the Trotting Congress of all courses represented in the Trotting Congress of Associations. The reward of \$50 was awarded to Messrs. Lyon and Joslyn for the detection of the fraud. The third case was that of W. H. Saunders and Son, the late lessees of Fashion Course, L. L., against the Scranton Park Association. The inter advertised purses to close June 6, and to be trotted June 14, 15, and 16. On June 5, the Messrs. Saunders telegraphed to enter their horse Western New-York, and requested an answer by telegraph. No reply was received antil June 13, a week afterward, when the Association telegraphed to the Messrs. Saunders that "it had filled all right at Scranton," The Messrs. Saunders refused to pay the entrance money, and the Beard indersed them in their refusal, deciding that their entry was conditional, and not complete and binding unless the Association made the required reply by telegraph within a reasonable time, and that the reply made June 13, was too late to be reasonable, or to hind Messes. Saunders and Son.

The claims of Isaae Woodruff agt. The Rensscher Park Association for the return of entrance money paid by him, on the ground that the race had been postponed two weeks, was decided in Mr. Woodruff's favor, as the postponement of two weeks was unreasonable.

The next case of interest was that of E. C. White and W. H. Saunders and Son agt. The Majority of the Judges in Class 2.25, at the July poeting of the Rensscher Park Association. Belle strickland had been allowed by the

W. H. Saunders and Son agt. The Majority of the Janges in Class 2:23, at the July meeting of the Rensscher Park Association. Belle Strickland had been allowed by the judges to start again after being outside the distanc-stand at the finish of the sixth heat. The race com-menced with the distance judge at the 150-yards stand, there being more than eight horses in the race. Five there being more than eight horses in the lear. Were frotted, when the race was postponed until the next day, and the distance stand was then placed at the 100-yards stand, according to rule. At the finish of the sixth heat Belle Strickhand was outside the 100-yards stand, and was so reported, but Wm. Borst, her driver, explained that he had mistaken the distance, under the supposition that it was the same as at the commencement of the race on the day before, and that he had, in consequence, nutled up his mare, when he could have

ment of the race on the day before, and that he had, in consequence, pulled up his mare, when he could have saved his distance. Two of the judges allowed her to continue the race, but the third objected and was overluled. Messrs. Sanuders and White, the owners of the other horses, appealed, and the Board reversed the decicion of the judges, and decided that Belle Strickland was, in fact, distanced in the sixth heat.

The only other case of interest was that of a sweepstake race of \$50 each at Chicago, on which a piece of plate given by the Briggs House, to go to the winner, and the Riehmond House added another piece of plate, to go to the second horse. The race was trotted Sept. 3, over the Dexter Park Course, and on the first heat Mr. Hershay's filty Fieta distanced the field. The judges then allowed the distanced horses to trot again for the piece of plate for second horse, and Messrs. Gage and Simpson won it. Mr. Hershay appealed to the Board, claiming the Richmond House Pate on account of his filly having dismond House Pate on account of his filly having dismond house Pate on account of his filly having dis-Mr. Hershay appealed to the Board, claiming the Richmond House Flate on account of his filly having distanced all her competitors, and that body decided in his favor, declaring "that when Fleta distanced the field the race was wholly at an end, and her owner was entitled to the entire purso and stakes, which, of course, included the Richmond House Plate."

HOLIDAY GOODS.

In addition to the places we have already commended to purchasers of Christmas presents, there

to that.

LIPTINGOTT & Co., the great Philadelphia publishers, bave an agency at No. 48 Broome-st. They share with G. P. Putnam & sons the control of the various editions of Irving's works, and publish Prescott's histories, Allibone's great Dictionary of Authors, and a long list of standard and popular literature, beside issuing four magnatics.

magazinea.

The well-known English house of MACMILIAN & Co. has a branch establishment at No. 43 Bleecker-st., where choice The well-known English house of Machillan & Co. has a branch establishment at No. 43 Bleecker st., where choice and elegant works of all kinds will amply repay inspection. These publishers are noted for admirable typography, binding, and paper, as well as for the high literary character of most of their books. They are the original devisers of the beautiful Golden Treasury Series and the Globe editions of the poets.

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LOCAL MISCELLANY.

TRADE AND RENTS. THE DRY GOODS BUSINESS-DECLINE IN PRICES -THE UP-TOWN MOVEMENT.

The Dry Goods Trade of this city has resulted more unfavorably this Fall than was generally anticipated. Early in the season the market was more active than for some years past, and everything indi-cated a very heavy business. The September trade justi. fled this anticipation, as a great number of buyers from the West and South were then in town whose aggregate purchases were, probably, in excess of the September purchases of any year since the close of the Rebellion. The European war showed no signs of ending, and the supply of German and Freuch goods in the market could not be replaced to the same extent as usual, the factories of both countries having been generally closed. A scarcity of imported goods; and higher prices, were, there fore, looked for-and many articles, it was supposed, could not be obtained, at all, lafer in the seaso crops had proved very abundant throughout the Western and Southern States, and a good trade is always looked for when such is the case,

After September, however, the trade fell off, as retaffers did not find the market they expected. The Fail has been an unusually warm one, and the public have not feit the need of Winter dry goods to the extent usual at this season. The South, too, has been disappointed in the price received for its staple, which has very materially

this season. The South, too, has been disappointed in the price received for its staple, which has very materially declined since the crop was gathered. This decline in raw cotton has produced a corresponding decline in the goods manufactured from it, which has had an injurious effect on trade. People are always ready to buy when goods are advancing, and there is a fair probability of receiving a profit; but maturally enough, when goods are declining, think they will decline still more, and in waiting for the lowest prices the season passes, and its trade is found unsulsaledry.

A good many changes are anticipated among dry goods firms at the beginning of the year. A number of prominent merchants will retire, and a number of new hoases will be formed. A difference is also discratible in the plans of doing business in future. The extravagained engendered among business mendaring the Rebellion has been gradually diminishing each year since it close. Decreased profits, depreciation of stock, and losses by bad debts, have, year by gear, admonisted business men to curtail their expenditures. A large item in the expenses of a dry goods business is the store rent. During the civil war, many firms were led to expand their business to the full extent of their financial abilities, and often beyond the bounds of prudence. In doing this, large stores, in high-priced, prominent locations, were necessary. But when goods depreciated these stores were found too large, and the rents paid for them too burdensome. Factories were formerly run day and night to supply the demand for their products, and the jobier was compelled to order far in advance of his waits, and in quantities much larger than his prosent requirements, in order to get the desirable part of his stock at all. Now, a merchant has no difficulty in supplying his wants as they arise, and though the factories are not run on full time they meet all demands for their goods. It is therefore entirely unnecessary for jobbers to carry a heavy stock, and, with a light stock,

inyed signing new ones until very late in the season, and a greater pressure was brought to bear on landlords that for some years past. Those who delayed longest made the best terms, and many who had hastily made their arrangements had reason for regret. This year there are a great number of stores remaining unlet, and a large proportion of these are on Broadway, where, in most cases, stores have been rented at a reduction on last year's rates. A few which were rented early in the season commanded, however, very fair prices. A large store, 50 by 175 feet, on Broadway, well located for the dry goods trade, was rented for \$80,00 per annum. Another, 50 by 200, equally well located, but further up town, was rented at about \$25,000. A store of extra size, which is below the center of the dry goods business, as a present located, was leaved, a few years ago, for \$16,000 per annum for five years. The occupants failed, and the store was let last year at \$10,000. The tenants now decline to pay more than \$5,000, and though a bill has been on the premises for a considerable time, no one has been found willing to take it at a higher rate. The tenant of an adjoining store still pays \$16,000 under a long lease not yet expired. A store which rented four years ago for \$15,000 per annum, is now held at \$12,000, but does not find a tenant, though it has been in the market for a month. Other responding prices. In general, landlonds of Breadway property are satisfied to accept the lowest prices of last year, but the tenants are unwilling to pay so much, and demand a further reduction. The best cross streets for the jobbing dry goods business are now White and Walker—the latter being the better of the two. White-st, is more and more given up to the commission business, and after the first of the year comparatively few jobbing, and after the first of the year comparatively few jobbing. Walker—the intier being the better of the two. White-sit is more and more given up to the commission business, and after the first of the year comparatively few jobbing firms will remain there. Walker-st., however, is almost exclusively used for the jobbing business, except in a few instances west of Church-st.

The up-town march of trade still continues, and as the jobbing trade moves in that direction the commission houses gradually occupy the stores vacated. Thus, Worth, Leonard and Franklin-sts., all of which, only a year or two ago, were prominent jobbing streets, are now almost exclusively abandoned to the commission business. A large store was creeted on Canal-st., nearly two years ago, for

shee business, in a measure, to the neighborhood of Grand-st, east of Broadway. The streets running paralies which are to be found at Dutton's and all the other principal book shops in this city. Konewka's "Hinstrations to Faust," and the poems of William Morris, dean Ingelow, and D. G. Rossetti are among the most interesting of their resent issues.

Lee & Suppand are well-known B.

canal-st., are being occupied by the importing trade, and are becoming the favorite location for importers and commission dealers.

The jobbing business already extends far up Broadway, and is rapidly getting in the neighborhood of the Metropolitan and St. Nicholas Hotels, even extending as far as the Grand Central. In fact, one jobbing concern is about to move from White-st. to the neighborhood of Amity-st. It is probable that in a very few years the entire wholesale dry goods business will be conducted in stores located above Canal-st., and that the streets now looked on as desirable, below Canal-st., will suffer the fate that has overtaken Warren, Chambers, Reade, and other similar streets, that are occupied by a mixture of all classes of trade. Such locations never command a good price.

As a further illustration of the remarkable decrease in rents, it is worthy of note that since the above was written a shoe-dealer has taken, for \$7,500 a year, a Broadway store, near Pearl-st., for which the man who rents it pays \$14,000 a year on a long lease. The same dealer was offered two other stores on Broadway, in the same vicinity, for \$4,000 less than the present lessees are obliged to pay for them.

THE BOARD OF HEALTH.

At the meeting of the Board yesterday, the ecomendation of the Sanitary Committee that the New-York Rendering Company be permitted to continue their business at the foot of West Thirty-eighth-st, was disapproved, Commissioners Bosworth, Manierre, S. Smith. Barr, and Health Officer Carnochan voting in the negative, and Commissioners Ceccarini, Gross, and Mullaly in the affirmative. The report of Inspector Wm. Ducey showed that out of over 12,000 cattle arriving during November at the yards of the Harlem and Hudson River Railroad, at One-hundredth-st., 150 were bruised and 6 were so diseased that they were killed and disposed of as offal. The Street Cleaning Commissioner reported 322 miles of streets cleaned by special order of the Board since June 23. The tenements No. 44 Baxter-st., No. 612 West-st., and Nos. 56 and 52 Park-st. were declared unsafe, and it was ordered that their condition be reported to the Superintendent of Buildings. The City Sanitary Inspector submitted the following comparative statement of contagious diseases for the fortnight ending Dec. 17: York Rendering Company be permitted to continue their

THE COURTS CIVIL NOTES.

The trial of the suit of the Eric Railway Company against Commodore Vanderbilt, resumed yes terday, was further adjourned to March 10, Judge Bar-nard remarking that he would try it then if he had to hire a room himself.

H. P. De Graef, H. Holdare, G. W. Bruce, J. R. Blakely, Peter Lorillard and Union Adams, petit jurors, lately fined \$250 each for non-attendance, hav-been summoned to appear before Judge Blatchford nex Saturday to show cause why such fines should not be en

In the Special Term of the Superior Court. before Justice Monell, Barbara Schreyer brought an sobefore Justice Mouell, Barbara Schreyer brought an ac-tion against her husband, Philip Schreyer, for separa-tion, on account of cruel and inhuman treatment. They have been separated twice before. She has now become satisfied that their differences are irreconcilable, and again desires to be set free. The defendant denies the allegation of ill-treatment, but admits the other facts of the complaint. Decision reserved.

William Broistedt, a property owner on William Broistett, a property owner on Broadway, Brooklyn, E. D., brings suit in the Kings County Supreme Court, before Judge Pratt, against the South Side Railroad Company of Long Island, to compet them to remove their tracks from Eroadway and to restrain them from running along that thoroughfare. The defendants claim that they had the consent of the Legislature and Common Council to lay the tracks and use them under stipulation from the Broadway Horse Railroad Company. Decision reserved.

In the Court of Oyer and Terminer, yesterday, Judge Cardozo presiding, and Algornon S. Sullivan appearing for the people, the following sentences were passed: Henry Schwartz, receiving stolen goods, three years; James Read, burglary, three years; Charles Leavitt, burglary, two years; Charles O'Reilly, assault and battery, six months; James Wilson, grand larceny, three years; Michael Collins, larceny, five years.

John R. Weir of No. 32 Cedar-st. is held to await the action of the Grand Jury on a charge of making false revenue returns to Assistant Assessor W. F. Symi Jasper Silva, charged with selling unstamped boxes of cigars, waived examination, and was held by Commis-sioner Shields to await the action of the Grand Jury. Ferdinand Foibelman, charged with selling unstamped